

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

MANOR CARE OF AMERICA, INC.)	
)	
Plaintiff,)	
)	
vs.)	
)	Civil Action No. L02CV4206
PROPERTY & CASUALTY INSURANCE GUARANTY CORPORATION)	
)	
)	
Defendant.)	
)	

**PLAINTIFF MANOR CARE OF AMERICA'S RESPONSE
TO DEFENDANT'S MOTION TO FILE A SURREPLY**

Plaintiff, Manor Care of America, Inc. ("Manor Care") by its undersigned counsel, hereby responds to Property & Casualty Insurance Guaranty Corporation's ("PCIGC's") motion to file a surreply in opposition to Manor Care's motion to compel and for sanctions. As Manor Care previously informed PCIGC, the plaintiff does not object to PCIGC's request to file a supplemental brief as long as Manor Care is allowed to file an additional brief responding to PCIGC's arguments, if necessary.

On October 9, 2003, the Court sent counsel for PCIGC a letter asking that the defendant seek consent from Manor Care to PCIGC's request to file a surreply in opposition to Manor Care's motion to compel and for sanctions. Although not referenced in PCIGC's October 22, 2003 motion to file a surreply, counsel for PCIGC contacted Manor Care's counsel seeking such consent. The e-mails exchanged between counsel for the parties are attached at Exhibit A. In sum, Manor Care did not agree that any new

arguments were presented that support PCIGC's request to file a surreply. However, Manor Care agreed to allow PCIGC to file a surreply as long as PCIGC agreed to allow Manor Care to file a supplemental responsive brief, if Manor Care deemed it necessary.

The rules are structured to allow the moving party the opportunity to have the last word on its motion. Consequently, Manor Care sought that opportunity as a condition of providing consent to PCIGC's request. Fundamental fairness dictates that Manor Care be permitted to respond to any arguments raised by PCIGC's surreply. Accordingly, Manor Care respectfully requests that, if this Court grants PCIGC's motion to file a surreply, the Court also allow Manor Care the opportunity to respond in kind.

/s/

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Counsel for Manor Care of America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2003, I caused the foregoing Response to PCIGC's Motion to File a Surreply to be served electronically and/or by regular U.S. mail upon the following:

Edward M. Buxbaum
Albert J. Mezzanotte, Jr.
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/s/
Deanne M. Ottaviano